

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER L. FINAZZO,  Plaintiff,  vs.  SECURITIES AND EXCHANGE COMMISSION,  Defendant.	<b>08-cv-02176 (RS)</b>  <b>NOTICE OF MOTION BY THE SECURITIES AND EXCHANGE COMMISSION TO DISMISS THE COMPLAINT</b>
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**PLEASE TAKE NOTICE** that upon the accompanying Motion and Memorandum of Law in Support of Motion by the Securities and Exchange Commission to Dismiss the Complaint, the Commission will move before the Hon. Richard J. Sullivan, United States District Judge, on a date and at a time designated by the Court, for an order dismissing the complaint for lack of jurisdiction, or alternatively, for failure to state a claim upon which relief can be granted. Fed. R. Civ. Proc. 12(b)(1), (6).

A proposed Order is attached hereto as Exhibit A.

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May 30, 2008

Respectfully submitted,

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/s/ *Karen J. Shimp*

KAREN J. SHIMP  
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## **EXHIBIT A**

### **PROPOSED ORDER DISMISSING COMPLAINT**

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FOR THE SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER L. FINAZZO,  Plaintiff,  vs.  SECURITIES AND EXCHANGE COMMISSION,  Defendant.	<b>08-cv-02176 (RS)</b>  [PROPOSED] <b>ORDER DISMISSING COMPLAINT</b>
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Upon consideration of the Motion by the Securities and Exchange Commission to Dismiss the Complaint, after consideration of all the submissions and arguments by the parties, it is hereby ORDERED that the Complaint be, and hereby is, DISMISSED WITH PREJUDICE for lack of subject matter jurisdiction. *See, e.g., Sprecher v. Graber*, 716 F.2d 968 (2<sup>nd</sup> Cir. 1983).

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Date

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Hon. Richard J. Sullivan